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101ST CONGRESS
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SENATE

REPORT
101-230

PETROGLYPH NATIONAL MONUMENT ESTABLISHMENT ACT OF 1989

DECEMBER 20, 1989.—Ordered to be printed

Filed under authority of the order of the Senate of November 22 (legislative day, November 6), 1989

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 286]

The Committee on Energy and Natural Resources to which was referred the bill (S. 286) to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act shall be cited as the "Petroglyph National Monument Establishment Act of 1989".

(b) The Congress finds that—

(1) The nationally significant Las Imagines National Archeological District on Albrquerque's West Mesa Escarpment contains more than fifteen thousand documented prehistoric and historic petroglyphs;

(2) this district also contains approximately 65 other archeological sites;

(3) the West Mesa Escarpment and the petroglyphs are threatened by urbanization and vandalism, and hundreds of petroglyphs have already been destroyed;

(4) the State of New Mexico has shown great leadership by recognizing the importance of the archeological resources of the West Mesa Escarpment through the establishment of the Las Imagines National Archeological District;

(5) the city of Albuquerque has played a significant role in the preservation of the natural, cultural, and recreational resources of the West Mesa Escarpment;

(6) the Middle Rio Grande Pueblo Tribes have shown a strong and sincere interest in preservation of their heritage through protection of the West Mesa Escarpment;

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(7) the Atrisco Land Grant, now held by Westland Development Co., Inc., a corporation whose stock is owned primarily by heirs of the Atrisco Land Grant, has played a significant role in the settlement of the West Mesa area since the grant's formation in 1692 and has shown a strong interest in the preservation of their traditional lands;

(8) The National Park System has no unit established for the specific purpose of protecting, preserving, and interpreting prehistoric and historic rock art; and

(9) in light of the national significance of the West Mesa Escarpment and the petroglyphs and the urgent need to protect the cultural and natural resources of the area from urbanization and vandalism, it is appropriate that a national monument be established in the West Mesa Escarpment area, near Albuquerque, New Mexico.

SEC. 2. (a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in New Mexico containing the nationally significant West Mesa Escarpment, the Las Imagines National Archeological District, a portion of the Artisco Land Grant, and other significant natural and cultural resources, to provide for the interpretation of such resources, and to facilitate research activities associated with the resources, there is hereby established the Petroglyph National Monument (hereinafter referred to as the "monument") as a unit of the National Park System. The monument shall consist of approximately 7,274 acres including the Atrisco, Boca, Negra, and Piedras Mercadas Units as depicted on the map entitled "Boundary Map, Petroglyph National Monument", numbered NM-PETR-80,010 and dated January 1989, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, and Natural Resources of the State of New Mexico, in the office of the mayor of the city of Albuquerque, New Mexico.

(b) The monument shall be administered by the Secretary or, where appropriate, by the Secretary in cooperation with the State of New Mexico (hereinafter referred to as the "State") and the city of Albuquerque, New Mexico (hereinafter referred to as the "city"), in accordance with section A of this Act.

(c) Within 6 months after the enactment of this Act, the Secretary shall file a legal description of the monument designated under this section with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a) of this section. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, and Natural Resources of the State of New Mexico, in the office of the mayor of the city of Albuquerque, New Mexico, and in the monument office: *Provided,* That the Secretary may from time to time, after completion of the plan referred to in section 5(a) of this Act, make minor adjustments to the boundary by publication of a revised map or other boundary description in the Federal Register.

SEC. 3. (a) Within the boundary of the monument, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that lands or interests therein owned by the State or a political subdivision thereof may be acquired only by donation or exchange.

(b) Where the surface and subsurface estates of private land to be acquired are separately owned, the Secretary shall acquire the subsurface estate to such land prior to or at the same time surface estate is acquired: *Provided,* That this subsection shall not be applicable if the Secretary determines that the prior acquisition of the surface estate is necessary—

(1) to prevent damage to the resources of the monument; or

(2) to properly manage and interpret the monument in accordance with section 2.

(c) The Secretary may exchange lands within the area described on the map referred to in section 2 as the Piedras Marcadas Unit for lands owned by the city within the area described on the map referred to in section 2 as the Atrisco Unit. The Secretary may exchange lands within the area described on the map referred to in section 2 as the Boca Negra Unit for lands owned by the State within the area described on the map referred to in section 2 as the Atrisco Unit. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged.

(d) It is the intent of Congress that the lands referred to in section 2 be administered in perpetuity as a unit of the National Park System. If any portion of the monument consisting of lands acquired from Westland Development Co., Inc., pursuant to this Act is ever deauthorized as a unit of the National Park System, the Secretary of the Interior, within one year from the date of such deauthorization, shall offer to sell such portion to Westland Development Co., Inc., its successor in interest, or assigns, for the amount that the Secretary paid for the land, adjusted for in accordance with the Consumer Price Index: *Provided,* That such amount may not exceed the fair market value of the land. If such offer is not accepted within ninety days of the date of the offer, the Secretary may dispose of the lands as provided by applicable law.

(e) Prior to acquiring fee simple ownership of private lands or interests therein within the boundaries of the monument, the Secretary is authorized to acquire an appropriate interest in such land by donation or for a nominal fee from its owners for the purpose of providing immediate protection against trespass and vandalism and initiating any resource inventories necessary to carry out the purpose of this Act.

SEC. 4. (a) The Secretary shall administer, manager, and protect the monument in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and this Act, and in such manner as to preserve, for the benefit and enjoyment of present and future generations, its cultural and natural resources, and to provide for interpretation of and research on such resources.

(b) The Secretary is authorized to enter into cooperative agreements with either the State or the city under which the Secretary may manage and interpret any lands owned by the State or the city, respectively, within the boundaries of the monument.

(c) In order to encourage a unified and cost effective interpretive program of the natural and cultural resources of the West Mesa Escarpment and its environs, the Secretary is authorized to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of these resources. Such agreements shall include, but need not be limited to, provision for the Secretary to develop and operate interpretive facilities and programs on lands and interests in lands outside the boundaries of the monument, with the agreement of the owner or administrator thereof. Such cooperative agreements may also provide for financial and technical assistance for the planning and implementation of interpretive programs and minimal development related to those programs.

(d) The Secretary may participate in land use and transportation management planning conducted by appropriate local authorities for lands adjacent to the monument and may provide technical assistance to such authorities and affected land owners for such planning.

(e) Nothing in this Act shall be construed as authorizing or requiring revocation of any interest or easement for existing electric transmission or distribution facilities or prohibiting the operation and maintenance of such facilities within or adjacent to the boundaries of the monument.

SEC. 5. (a) Within 3 years from the date funding is made available for the purposes of this section, the Secretary, in cooperation with the city and the State, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, a general management plan for the monument consistent with the purposes of this Act, including but not limited to:

(1) a statement of the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

(2) a general interpretive program;

(3) a plan to implement the joint resolution entitled "American Indian Religious Freedom", approved August 11, 1978 (42 U.S.C. 1996); and

(4) a general development plan for the monument, including proposals for a visitors' center, and the estimated cost thereof.

(b) The management plan shall be prepared in consultation with the Petroglyph National Monument Advisory Commission, established pursuant to section 7, appropriate Indian tribes and their civil officials, the heirs of the Atrisco Land Grant, the New Mexico State Historical Preservation Office, and other interested parties.

(c) The Secretary shall undertake research on other Rio Grande style rock art sites on Federal lands in New Mexico and provide the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and

Insular Affairs of the United States House of Representatives, within 3 years of the date funding is made available for the purposes of this section, a report that—

(1) lists various locations of Rio Grande style rock art;

(2) identifies the condition of the resources; and

(3) identifies the appropriate type of technical assistance needed for the protection and care of these resources.

The report shall be updated and transmitted to such committees every 2 years thereafter.

SEC. 6. In recognition of the past use of the monument by Indiana people for traditional cultural and relligious purposes, the Secretary shall insure nonexclusive access to the monument by Indiana people for such traditional cultural and religious purposes, consistent with Public Law No. 95–341 (42 U.S.C. 1996). As part of the plans prepared pursuant to section 5, the Secretary, in consultation with appropriate Indian tribes and their civil officials, shall define the past cultural and religious uses of the monument by Indian people.

SEC. 7 (a) There is established the Petroglyph National Monument Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of 10 members appointed by the Secretary for terms of 5 years as follows:

(1) one member, who shall have professional expertise in history or archaeology, appointed from recommendations submitted by the Governor of the State of New Mexico;

(2) one member, who shall have professional expertise in history or archaeology, appointed from recommendations submitted by the mayor of the city of Albuquerque, New Mexico;

(3) one member, who shall have professional expertise in Indian history or ceremonial activities, appointed from recommendations submitted by the All Indian Pueblo Council;

(4) one member who shall be a shareholder of the Westland Development Co., Inc.;

(5) one member who shall be an heir of the Atrisco Land Grant;

(6) one member who shall be an affected land owner;

(7) one member who shall have professional expertise in geology;

(8) one member who shall have professional expertise in Indian rock art;

(9) one member from the general public; and

(10) the director of the National Park Service, or his or her designee, ex officio.

(b) Any member of the Commission may serve after the expiration of his term until his successor is appointed. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Five members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall, from time to time, meet with persons concerned with Indian history and historic preservation and with other interested persons.

(f) The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act. Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) The Commission shall advise the Secretary on the management and development of the monument and on the preparation of the plan referred to in section 5(a) of this Act. The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the monument.

(h) The Commission shall cease to exist 10 years after the date of its first meeting.

SEC. 8. The first sentence of section 202 of Public Law 100–225 (15 U.S.C. 460uu–12) is amended by deleting "and Zuni-Cibola National Historical Park" and inserting "Zuni-Cibola National Historical Park, and Petroglyph National Monument."

SEC. 9. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

PURPOSE OF THE MEASURE

The purpose of S. 286 is to establish the 7,274 acre Petroglyph National Monument near Albuquerque, New Mexico.

BACKGROUND AND NEED

Lying just west of Albuquerque, New Mexico is the West Mesa, a 17-mile long basalt escarpment. As many as 17,000 petroglyphs are located within the escarpment. The entire escarpment is located within the Las Imagines Archeological District, which is listed on the National Register of Historic Places. A large section of the West Mesa is now threatened by development from nearby Albuquerque. In some areas, houses have already been built within a few feet from some of the petroglyphs.

The majority of the petroglyphs date from the Pueblo IV period (1300 to 1600, A.D.) although some figures date back as far as 1000, B.C. The escarpment contains one of the largest remaining concentrations of Rio Grande style rock art, evidenced by bold, complex figures. Among the petroglyphs within the monument boundary are drawings of human ceremonial figures, animals, serpents, star beings and kachina masks.

S. 286 provides for joint land acquisition for the monument by the City of Albuquerque, the State of New Mexico and the Federal government, with the Federal Government to acquire approximately 5,150 acres.

LEGISLATIVE HISTORY

S. 286 was introduced by Senators Domenici and Bingaman on January 31, 1989. The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 286 in Albuquerque, New Mexico on April 28, 1989 and in Washington, D.C. on July 27, 1989. Companion legislation, H.R. 745, has been introduced in the House of Representatives.

At the business meeting on November 15, 1989, the Senate Committee on Energy and Natural Resources ordered S. 286, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 15, 1989, by unanimous vote of a quorum present, recommends that the Senate pass S. 286, if amended as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Bradley*	

Mr. Bingaman*
Mr. Wirth*
Mr. Conrad
Mr. Heflin
Mr. Rockefeller*
Mr. McClure
Mr. Hatfield*
Mr. Domenici
Mr. Wallop
Mr. Murkowski*
Mr. Nickles*
Mr. Burns
Mr. Garn*
Mr. McConnell

*Indicates voted by proxy.

Committee Amendments

During the consideration of S. 286, the Committee adopted an amendment in the nature of a substitute. In addition to making several technical and clarifying changes, the amendment made the following substantive changes:

The amendment provides that all lands acquired by the City of Albuquerque, the State of New Mexico and the Federal Government are to be included within the monument boundary. However, the Committee intends that the National Park Service shall be responsible for the management of the Atrisco Unit of the monument, the State shall be responsible for the management of the Boca Negra Unit, and the city shall be responsible for the management of the Piedras Marcadas Unit. The Committee understands that the State intends to enter into a joint powers agreement with the city to allow the city to manage the Boca Negra Unit for the State.

The amendment modifies subsection 3(b) to provide that in cases where the surface and subsurface estates of private land to be acquired are separately owned, the Secretary of the Interior shall acquire the subsurface estate prior to, or contemporaneous with, the acquisition of the surface estate, unless the Secretary determines that prior acquisition of the surface estate is necessary to prevent damages to the resources of the monument or to allow the Secretary to properly manage and interpret the monument.

The Committee amendment provides that if any portion of lands purchased from Westland Development Co., Inc. ever ceases to be administered as a unit of the National Park System, the Secretary of the Interior is directed to offer to sell such portion to Westland for the original purchase price, adjusted for inflation. The Committee notes that the amendment states that it is the intent of Congress that the monument be administered in perpetuity as a unit of the National Park System.

The substitute allows the Secretary of the Interior greater flexibility in protecting lands within the monument where there is an immediate threat of trespass and vandalism. The amendment authorizes the Secretary to acquire an appropriate interest in such lands as an interim measure to protect such area.

Finally, the amendment increases the size of the Petroglyph National Monument Advisory Commission established in section 7 from 6 to 10 members. The four additional members are to be made up of the Director of the National Park Service, serving in an ex offico capacity, a member of the general public, an heir of the Atrisco Land Grant, and an affected land owner.

Section-by-Section Analysis

Subsection 1(a) entitles the Act the "Petroglyph National Monument Establishment Act of 1989."

Subsection (b) contains the Congressional findings.

Section 2 establishes the Petroglyph National Monument near Albuquerque, New Mexico. Subsection (a) states that the monument shall consist of approximately 7,274 acres as depicted on National Park Service map NM–PETR–80,010 dated January, 1989.

Subsection (b) provides that the monument is to be administered by the Secretary of the Interior (the "Secretary"), or where appropriate, by the Secretary in cooperation with the State of New Mexico and the City of Albuquerque, in accordance with the management provision of section 4 of this Act.

Subsection (c) directs the Secretary, within 6 months after the date of enactment of this Act, to file a legal description of the monument with the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. The subsection also grants the Secretary the authority to make minor adjustments in the boundary from time to time.

Subsection 3(a) authorizes the Secretary to acquire lands and interests in lands within the monument boundary by donation, purchase with donated or appropriated funds, exchange or transfer from another Federal agency, except that lands or interests therein owned by the State of New Mexico or a political subdivision of the State may only be acquired by donation.

Subsection (b) provides that where the surface and subsurface estates of private lands to be acquired are separately owned, the Secretary shall acquire the subsurface estate prior to or contemporaneous with the acquisition of the surface estate unless the Secretary determines that prior acquisition of the surface estate is necessary to prevent damage to the monument or to properly manage and interpret the monument in accordance with section 2.

Subsection (c) authorizes the Secretary to exchange lands within that portion of the monument identified as the Piedras Marcadas unit for lands owned by the City of Albuquerque within the monument in the area identified as the Atrisco unit. The Secretary is also authorized to exchange lands within the monument in the area identified as the Boca Negra Unit for lands owned by the State of New Mexico within the monument in the area identified as the Atrisco unit. The subsection provides that exchanges shall be on an equal value basis, with cash equalization payments, if necessary.

The Committee is aware that the New Mexico Horse Council has operated an equestrian complex on a portion of the City of Albuquerque's La Boca Negra Park for the past 15 years. The City of Albuquerque, in order to assure that the lands within and adjacent

to the monument are utilized in ways that are compatible with the monument, has proposed relocating the equestrian complex on non-Federal lands in the city. The Committee supports this effort and directs the National Park Service to work with the City and the New Mexico Horse Council to assist in the relocation of this facility on non-Federal lands.

Subsection (d) states that it is the intent of Congress that lands acquired pursuant to section 2 be administered in perpetuity as a unit of the National Park System. If any portion of lands acquired from Westland Development Company, Inc. (Westland) is ever deauthorized as a unit of the National Park System, the Secretary shall offer to sell such portion to Westland within 1 year for the amount the Secretary paid to Westland for such portion, adjusted for inflation, provided that the adjusted cost does not exceed the fair market value of the property. If the offer is not accepted by Westland, the Secretary may dispose of the parcel in accordance with applicable law.

This is the only time that legislation establishing a unit of the National Park System has included specific language providing for the disposal of Park land should the unit ever cease to be managed as a component of the National Park System. The Committee notes that this is a unique situation with respect to the strong ancestral ties the heirs of the Atrisco Land Grant have to a portion of the land to be included in the monument. The Committee emphasized that this area is to be administered in perpetuity as a National Monument and a unit of the National Park System. The inclusion of this language should not be interpreted as signaling the Committee's intention that the monument ever be managed for any other purpose.

Subsection (e) authorizes the Secretary to acquire an appropriate interest in lands prior to acquiring fee simple title to such lands or interests. Such interest shall be by donation or for a nominal fee for the purpose of providing immediate protection against trespass and vandalism.

Subsection 4(a) directs the Secretary to administer, manage and protect the monument in accordance with the Organic Act of 1916, the Historic Preservation Act of 1935 and this Act, and in such manner as to preserve the monument's cultural and natural resources for the benefit of present and future generations.

Subsection (b) provides that the Secretary is authorized to enter into cooperative agreements with the State of New Mexico or the City of Albuquerque under which the Secretary may manage and interpret any lands owned by the State or the city within the boundaries of the monument.

Subsection (c) authorizes the Secretary to enter into cooperative arguments with Federal, State and local public departments and agencies, Indian tribes and nonprofit entities to encourage a unified and cost effective interpretative program of the natural and cultural resources of the West Mesa Escarpment and its environs. Any agreement is to include, in addition to any other provisions, a provision allowing the Secretary to develop and operate interpretive facilities and programs on lands and interests in lands outside of the monument boundaries. The Committee encourages the Secretary, to the maximum extent practicable, to promote business and

employment opportunities at the monument that will benefit Pueblo Indians and the heirs of the Atrisco Land Grant.

Subsection (d) states that the Secretary may participate in land use and transportation management planning conducted by appropriate local authorities and may provide technical assistance to such authorities and affected land owners.

Subsection (e) provides that nothing in this Act shall be construed as authorizing or requiring revocation of any interest or easement for existing electric transmission or distribution facilities or prohibiting the operation of such facilities within or adjacent to the monument.

Subsection 5(a) directs the Secretary to develop a general management plan for the monument which is consistent with the purpose of this Act. Such plan is to be prepared in cooperation with the city and the State and is to be completed within 3 years after the date funding is made available for this section. Copies of the completed plan are to be transmitted to the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee.

Due to the high quality of the resources in the vicinity of La Mesa Prieta and the importance of the acquisition of La Mesa Prieta to the creation of the national monument, the Committee expects that the general management plan will include a land acquisition plan that will place a high priority on the acquisition of land in the vicinity of La Mesa Prieta. In addition, the Committee believes that the National Park Service should evaluate the feasibility of establishing the visitors center for the monument in the vicinity of La Mesa Prieta.

Subsection (b) provides that the plan is to be prepared in consultation with the Petroglyph National Monument Advisory Commission established pursuant to section 7, appropriate Indian tribes and their civil officials, the heirs of the Atrisco Land Grant, the New Mexico State Historical Preservation Office and other interested parties.

In order to ensure consistent administration, management, and protection of all units within the monument, the National Park Service is directed to coordinate and cooperate to the fullest extent practicable with the city and the State in the preparation of the general management plan.

The Committee is aware of the strong historic tie that the heirs of the Atrisco Land Grant have to a large portion of the land within the monument. the Atrisco Land Grant, created in 1692 by the King of Spain, became the Town of Atrisco, a land grant corporation in 1892, which in turn was converted into Westland Development Co., Inc. in 1967. The common ownership of this land for the benefit of the heirs of the Atrisco Land Grant has played a central role in the economic, cultural, and social life of the Atrisco heirs for centuries. The Committee believes that the creation of a national monument is an effective mechanism for the protection of this valuable resource. The Committee also believes that the heirs of the Atrisco Land Grant have valuable contributions to make to the national monument and, therefore, directs the National Park Service to consult with the heirs of the Atrisco Land Grant in the de-

velopment of the general management plan for the national monument.

The Committee recognizes that the monument will be in an urban area with a variety of existing land uses in surrounding lands, and the designation of the national monument is not intended to deprive landowners of those existing uses. The location of the monument within an urban environment presents special opportunities for the Federal Government to cooperate with surrounding communities. In order to foster cooperation, the National Park Service should afford individuals and entities that have interests in surrounding lands the opportunity to participate in the development of the general management plan.

The National Park Service is directed to pursue long-range planning with affected utilities to examine the possibility of relocating power transmission facilities in anticipation of the time when the existing facilities need to be replaced.

Subsection (c) directs the Secretary to undertake research on other Rio Grande style rock art sites on Federal lands in New Mexico and, within 3 years after the date funding is made available for the purposes of this section, to transmit a report to the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee. The report is to list various locations of Rio Grande style rock art, the condition of the resources and the appropriate type of technical assistance needed. Every 2 years, the report is to be updated and transmitted to the 2 committees.

Section 6 states that the Secretary shall ensure nonexclusive access to the monument by Indian people consistent with Public Law 95–341. The section also requires the Secretary, in consultation with appropriate Indian tribes and their civil officials, to define the past cultural and religious uses of the monument by Indian people.

Section 7 establishes the Petroglyph National Monument Advisory Committee (the "Commission"). Subsection (a) states that the Commission is to be composed of 10 members who are to be appointed by the Secretary. Members of the Commission are to serve terms of 5 years. The 10 members are to be appointed as follows: one member with professional expertise in history or archeology, recommended by the Governor of New Mexico; one member with professional expertise in history or archeology, recommended by the Mayor of Albuquerque; one member with professional expertise in Indian history or ceremonial activities, recommended by the All Indian Pueblo Council; one member who is a shareholder of the Westland Development Co., Inc.; one member who is an affected land owner; one member with professional expertise in geology; one member with professional expertise in Indian rock art; one member from the general public; and the Director of the National Park Service or his or her designee, to serve as an ex officio member.

Subsection (b) allows any member of the Commission to serve after the expiration of his or her term until a successor is appointed. Any vacancies on the Commission are to be filled in the same manner in which the original appointment was made.

Subsection (c) states that members of the Commission shall serve without pay, but may receive per diem expenses while performing services for the Commission.

Subsection (d) provides that the Chair and other offices of the Commission shall be elected by a majority of the members of the Commission to serve for terms set by the Commission.

Subsection (e) states that the Commission is to meet at the call of the Chair or a majority of its members, but not less than twice annually. A quorum is defined to consist of 5 members.

Subsection (f) authorizes the Commission to make such bylaws, rules and regulations as it considers necessary to carry out its functions.

Subsection (g) directs the Commission to advise the Secretary on the management and development of the monument and on the preparation of the General Management Plan.

Subsection (h) provides that the Commission shall cease to exist ten years after the date of its first meeting.

Section 8 amends Public Law 100–225 to add the monument to the Masau Trail.

Section 9 authorizes the appropriation of such sums as may be necessary for the purposes of this Act.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 20, 1989.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 286, a bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer.

Congressional Budget Office Cost Estimate

1. Bill number: S. 286.

2. Bill title: A bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on November 15, 1989.

4. Bill purpose: S. 286 would establish the Petroglyph National Monument, comprising about 7,300 acres in the area of Albuquerque, New Mexico. The bill would authorize the Secretary of the Interior to acquire lands within the monument's boundaries by purchase, exchange, or donation. The monument would be administered by the National Park Service (NPS), which would be directed

to prepare a management plan for the site within three years of enactment. In order to assist the agency in the management and development of the monument, the bill would establish a 10-member advisory commission. Finally, the bill would authorize the appropriation of whatever sums are needed to implement its provisions.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Estimated authorization level	60	1	1	1	1
Estimated outlays	29	5	5	5	5

The costs of this bill fall within budget function 300.

Basis of estimate: For purposes of this estimate, it has been assumed that S. 286 will be enacted during fiscal year 1990 and that the entire amount needed for acquisition will be appropriated during the year. It is estimated that total acquisition costs would be about $60 million. Of this amount, $29 million would be spent in the year of appropriation. The balance would be spent over the following nine years. The estimate includes $1 million a year for administrative costs and payments in lieu of taxes. These estimates are based on information obtained from the NPS.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Reis.

10. Estimate approved by: C.G. Nuckols, (for James L. Blum, Assistant Director for Budget Analysis).

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 286. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 286, as reported.

Executive Communications

On July 11, 1989, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth the Administration's views on S. 286. These reports had not been received at the time the report on S. 286 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

The testimony provided by the National Park Service at the Subcommittee hearing follows:

STATEMENT OF JAMES M. RIDENOUR, DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, I appreciate the opportunity to provide your subcommittee with the views of the Department of the Interior on this legislation.

We support enactment of S. 286 if amended as described below to reduce its cost to the Federal Government. The resources that are the focus of this legislation—ancient Pueblo Indian and Spanish rock art—are seriously threatened and must be protected soon. We therefore support establishment of a new unit of the National Park System to help protect these resources. However, we do not believe that in the current fiscal climate, the Park Service can shoulder all of the financial burden that S. 286 would impose.

BACKGROUND

West of Albuquerque, New Mexico, the major landscape feature is the West Mesa, marked by a 17-mile-long basalt escarpment and five volcanic cones. Within this area are an estimated 15,000 to 17,000 petroglyphs, which are designs carved or pecked into the rock.

The petroglyphs relate to prehistoric Pueblo Indian religious images and include figures from the historic Spanish period. They include—

Lizards or horned toads,
Large mammals and birds in outline,
Human ceremonial figures,
"Star-beings",
Fluteplayers,
Horned and masked serpents,
Kachina masks, and
Historic crosses and religious figures.

The escarpment has been entered on the National Register of Historic Places as a National Archeological District.

The estimated 15,000 to 17,000 petroglyphs represent thousands of years of human history, depicting images of great religious importance to the Pueblo Indians as well as the influence of Spanish settlers. The petroglyphs are intriguing and important standing alone, but the West Mesa provides an exceptional opportunity to understand these images in the context of other archeological sites, significant geological features, and more recent changes in the landscape.

Although most of the petroglyphs are from the period 1300–1650, some are estimated to be more than 3,000 years old and others are from the historic period when Spanish sheepherders used the area. At least 65 recorded archeological sites within the area tell the story of more than 10,000 years of human habitation in the Rio Grande Valley. The proposed monument also documents the geological forces that created the landscape, especially the volcanic eruptions 190,000 years ago. The top of the mesa offers panoramic

vistas of the city, the Sandia and Manzano Mountains to the east, and interesting geological formations to the west.

Albuquerque is growing rapidly toward the West Mesa. Subdivisions have been proposed up to the base of the escarpment and on the mesa top. Homes have already been built next to major rock art concentrations. Petroglyphs are continuously lost or damaged by vandalism, shooting, theft, and construction activity.

In report language accompanying the fiscal year 1987 and 1988 Interior and Related Agencies Appropriation Acts, Congress provided for a study of the area. The study was completed in 1988. It outlined three alternatives, ranging from total National Park Service management to total city-State-private management. These alternatives were representative of options for preserving the petroglyphs, but not exhaustive. S. 286 reflects the second alternative—a combination of National Park Service and city-State management.

While we concur that resource sharing will be an important component to the success of this joint effort, we believe that some modification of the relative roles of the State, city, and Park Service from what is proposed in S. 286 is necessary. We will describe how S. 286 would apportion those roles, and then describe the change we are recommending.

THE PROPOSAL

S. 286 would authorize establishment of a Petroglyph National Monument consisting of three units:

Atrisco Unit, of 5,279.95 acres. This would be acquired by the National Park Service by purchase, donation, or exchange. Within this unit are approximately 2,245.31 acres of private land, 640 acres of State land, and 2,394.64 acres of city-owned land.

Piedras Marcadas Unit, of 1,779 acres. This unit, adjacent to the Atrisco Unit on the northeast, would be added to the monument upon application by the city of Albuquerque. However, under the bill, the Secretary must determine that all lands within this unit have been acquired by the city. Currently, the city holds title to 455.65 acres within this unit. The remaining 1,323.61 acres are privately owned. The city has adopted a ¼-cent sales tax that will yield as much as $40 million over the next 3 years of which some $13.75 million has been allocated thus far for acquisition of open space in the petroglyphs area. We expect a substantial portion of this amount will be spent on lands within the monument, primarily in this unit.

Boca Negra Unit, of 215.10 acres. This unit would be adjacent to the Atrisco Unit on the north. It is privately owned except for 74 acres of city-owned land that comprises Petroglyphs State Park. This unit would be added to the monument upon application by the State of New Mexico. As with the Piedras Marcadas Unit, under the bill the Secretary must determine that all lands within the unit have been acquired. We understand that the State has enacted legislation authorizing the acquisition of these private lands.

Thus the Petroglyph National Monument would consist of a total of 7,274.31 acres. While the bill authorizes the acquisition of State

and city lands by donation or exchange, there is no requirement that they donate to or exchange lands with the Federal Government. Subsection (a) of section 4 of the bill authorizes the Secretary to manage and interpret State or city lands within the boundary, and subsection (b) of section 4 authorizes interpretive programs and assistance with State and other entities on lands outside the boundary.

Section 3(b) of the bill would authorize the Secretary to acquire State and city lands in the Atrisco Unit in exchange for Federal lands in the other two units. Under this arrangement, the Secretary could acquire private lands within the Piedras Marcadas and Boca Negra Units and convey the land thus acquired to the State and city in exchange for their lands in the Atrisco Unit.

This subsection would provide an additional tool to assure protection of the resources of all three units of the monument.

The bill contains provisions, similar to those in other new park legislation, for a general management plan and an advisory commission. In addition, the bill would add Petroglyph National Monument to the parks included in the Masau Trail, which was established in the last Congress.

NATIVE AMERICANS

Special language is included in sections 5 and 6 to ensure that plans for the monument and its operation would recognize the past and present use of the areas by Indian people.

The petroglyph figures—although hundreds of years old—resemble closely certain Kachinas and other figures of contemporary religious significance. The bill would require the Secretary to ensure nonexclusive access to the monument by Indian people for traditional cultural and religious purposes.

We fully support these provisions. Congress included similar language in the El Malpais legislation in 1987. The National Park Service would work closely with Pueblo leaders to assure that the intent of these provisions was carried out.

ADVISORY COMMISSION

The membership of the Advisory Commission established in section 6 should be expanded to include representatives of local residents, park users, and others with a substantial interest in how the monument should be managed.

COSTS

If the Petroglyphs National Monument were constituted as authorized by S. 286, the estimated cost to the National Park Service of acquiring private lands within the proposed Atrisco Unit would be $58 million. The commitments to date by the city of Albuquerque and the State of New Mexico to purchase private lands in the proposed Piedras Marcadas and Boca Negra Units are $14 million and $6 million, respectively.

Mr. Chairman, we simply do not believe that, in the current fiscal climate and given competing priorities, it is realistic or feasible to expect that Federal appropriations approaching $60 million

will be made available in a reasonable timeframe for land acquisition at Petroglyphs.

As you know, the backlog of authorized, unfunded Park Service acquisition has been estimated to exceed $1 billion. In recent months this Department has supported the authorization of important park expansions at Everglades National Park and Fredericksburg-Spotsylvania National Military Park that will add tens of millions of dollars to this backlog. Although both the President and Congress support a sustained program of Federal land acquisition financed by the Land and Water Conservation Fund, many competing and important demands are placed on these monies.

It is possible that a $60 million land acquisition funding requirement for this proposed new unit could be budgeted for and appropriated over a period of 10–20 years. However, this would not achieve short-term protection of the Petroglyphs. Moreover, management of the new unit in the interim would be seriously hampered by the piecemeal approach to acquisition. It would be better to decide what we can realistically afford and to proceed expeditiously on that basis.

We therefore recommend that S. 286 be amended to authorize appropriations of no more than $30 million for land acquisition at Petroglyphs, and that the bill be further amended to reduce the scope of Federal responsibility consistent with this funding level. We believe that $30 million is a realistic amount that could be provided over the next several years without sacrificing too many competing priorities. Any or a combination of the following adjustments to the authorization could be made to achieve this end:

The proposed boundary between the Atrisco and Boca Negra Units could be moved southward, to shift responsibility for purchases of private property along the central portion of the escarpment from the Park Service to the State.

The proposed southern and western boundaries of the Atrisco Unit could be adjusted to exclude parts of the Mesa Top, to concentrate Park Service resources on preservation of the southern portion of the escarpment.

Cost-sharing by the city and/or State could be required for Park Service purchases within the Atrisco Unit.

Less-than-fee purchases (e.g. of conservation easements) could be prescribed to the extent they are cost-effective.

We would be pleased to work with the committee to draft an appropriate combination of amendments.

We further recommend, Mr. Chairman, that areas owned or acquired by the city and State encompassing the central and northern portions of the escarpment be managed by those entities. While we would seek cooperative agreements to ensure consistent management, we do not believe it would be efficient or appropriate for the Federal Government to take full responsibility for these areas, since they are slated to become surrounded by suburban development that will be within the city's jurisdiction.

Development costs will be addressed in the general management plan for the monument. They cannot be estimated for certain at this time, but will also have to compete for funding in the normal budget and appropriations process.

In closing, Mr. Chairman, we believe that a partnership among the Federal Governmen', the State of New Mexico, and the city of Albuquerque will ensure the perpetuation of these resources. However, it is important that we be cognizant of the fiscal limitations we face in fashioning a workable and effective authorization.

This concludes my prepared remarks, Mr. Chairman. There are appended to this statement some suggested technical amendments that we believe will clarify certain provisions of the bill. I will be pleased to respond to any questions you may have.

DEPARTMENT OF THE INTERIOR AMENDMENTS TO S. 286—PETROGLYPH NATIONAL MONUMENT

1. On page 3, line 12, strike "5,150" and insert "5,280". This amendment substitutes a more accurate acreage for the area shown on the map referred to in the bill.

2. On page 4, line 2, strike "all lands and all interests" and insert "substantially all privately owned lands and interests"; and in line 3 after "acquired" insert "by the city". This amendment would permit addition of the Piedras Marcadas Unit if substantially all lands were acquired, and it makes clear that the lands to be acquired are private lands and that they would be acquired by the city.

3. On page 4, line 9, strike "all lands and all interests" and insert "substantially all privately owned lands and interests"; and in line 10 after "acquired" insert "by the State". The reason for this amendment is the same as that for amendment Number 2, except that here the lands would be acquired by the State.

4. On page 5, line 3, change the colon to a period and strike the proviso. The amendment strikes language authorizing minor boundary adjustments, which is not necessary since general authority to make such minor boundary revisions is contained in section 7(c) of the Land and Water Conservation Fund Act of 1965 as amended.

5. On page 5, line 8, strike "the" and insert "within the boundary of the monument and (for purposes of conveying the lands so acquired to the State or city in exchange for State or city lands in the Atrisco Unit) within the areas referred to in section 2(a)(2) and section 2(a)(3), the". This amendment makes clear that the Secretary's acquisition authority applies within the monument and also (but only for purposes of acquiring lands that can be used to acquire State or city lands within the Atrisco Unit by exchange) to the Piedras Marcadas and Boca Negra Units as well.

6. On page 5, strike the sentence beginning in line 13 through the period in line 17. The stricken language requires acquisition of the subsurface before the surface in cases of split estates. The Secretary should have discretion to acquire the surface if to do so would be consistent with the purposes of the monument.

7. On page 7, line 7, after "acquiring" insert "fee simple". This amendment distinguishes ownership of land in fee from ownership of a leasehold interest.

8. On page 10, lines 2, 6, and 18, strike "historic preservation" and insert "history or archeology". The term "historic preservation" includes preservation of historic buildings and structures,

whereas members of this commission should have expertise in history or archeology.

9. On page 11, line 22, strike "sections 9(c) and" insert "section". Section 9(c) of the Federal Advisory Committee Act requires each committee to have a charter. The bill would make that provision inapplicable to this committee. This amendment strikes the reference to section 9(c), thus reinstating the charter requirement. All other National Park System advisory committees have charters, and the charter is a useful statement of the purpose and composition of a committee.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the bill as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman):

PUBLIC LAW 100-225

AN ACT To establish the El Malpais Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes.

* * * * * * *

§ 460uu-12. Areas included

The trail shall include public roads linking El Malpais National Monument as established pursuant to part A El Morro National Monument, Chaco Cultural National Historical Park, Aztec Ruins National Monument, Canyon De Chelly National Monument, Pecos National Monument, Gila Cliff Dwellings National Monument, [and Zuni-Cibola National Historical Park.] *Zuni-Cibola National Historic Park, and Petroglyph National Management.* The Secretary may, in the manner set forth in section 460uu-11 of this title, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of national significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities.

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